

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

CARL RISOLDI

(b) County of Residence of First Listed Plaintiff BUCKS
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
David M. Koller, Esquire, Koller Law LLC, 2043 Locust Street, Suite 1-B,
Philadelphia, PA 19103, 215-545-8917

DEFENDANTS

PENNSYLVANIA TURNPIKE COMMISSION

County of Residence of First Listed Defendant DAUPHIN
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Right to Due Process

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

08/30/2019

SIGNATURE OF ATTORNEY OF RECORD

David M. Koller

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

3. Defendant, Pennsylvania Turnpike Commission employed Plaintiff at the address listed above.

4. At all times relevant hereto, Defendant employed manager, supervisors, agents, and employees who Plaintiff alleges had the authority to make decisions concerning Plaintiff's employment. In making said decisions, these individuals engaged in a pattern and practice of discriminatory treatment, which forms the basis of Plaintiff's allegations in the instant Complaint.

5. At all times relevant hereto, Defendant employed managers, supervisors, agents, and employees who acted directly or indirectly in the interest of the employer. In so acting, these individuals engaged in the pattern and practice of discriminatory treatment, which forms the basis of Plaintiff's allegations in the instant Complaint.

JURISDICTION AND VENUE

6. Plaintiff incorporates the preceding paragraphs as if set forth more fully at length herein.

7. Subject-Matter Jurisdiction is conferred upon this Honorable Court by 28 U.S.C. § 1337 relating to "any civil action or proceeding arising out of any act of Congress regulating commerce," 28 U.S.C. § 1343(4), and 28 U.S.C. § 1331.

8. This Court may properly maintain Personal Jurisdiction over Defendant because Defendant's contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendant to comply with the traditional notions of fair play and substantial justice, thus satisfying the standard set forth by the United States Supreme Court in *International Shoe Co. v. Washington*, 326 U.S. 310 (1945) and its progeny.

MATERIAL FACTS

9. Carl Risoldi ("Plaintiff") is an adult individual who resides at 5781 Stoney Hill Road in New Hope, PA 18938.

10. He worked as a Public Relations and Marketing Specialist for the Defendant Pennsylvania Turnpike Commission (“Defendant” or “Commission”) from 2005 to December 8, 2017.

11. On January 23, 2015, Plaintiff was suspended without pay or benefits from his position as the Public Relations and Marketing Specialist at the Commission. See Exhibit A.

12. The suspension was effective immediately and taken because of an indictment by the Thirty-Fifth Statewide Investigating Grand Jury alleging criminal activity.

13. Defendant advised, in a letter dated January 23, 2015, that if the activity was proven, it would be a violation of Policy Letter 3.10, Code of Conduct, XI Job Performance of Employees 11.8, stating that employees are to refrain from engaging in conduct that would reflect unfavorably on or discredit the Commission.

14. In that same letter, Defendant told Plaintiff that during the period of suspension, he should not be permitted on Commission property and is not permitted to contact any other employees of the Commission without Commission’s consent.

15. The letter also stated that “[a]fter the completion of the criminal proceeding against [Plaintiff], a final decision will be made regarding [Plaintiff’s employment] with the Commission.”

16. In a letter dated January 30, 2015, The Commission’s Manager of Compensation and Benefits wrote to Plaintiff to notify him that his health benefits would be canceled January 31, 2015 and addressing his options under COBRA and his accrued vacation and sick time. The letter also instructed him to return all Commission property to his supervisor. See Exhibit B.

17. Plaintiff returned his identification badge and gate key on January 29, 2015. See Exhibit C.

18. Plaintiff’s criminal matter is still pending. See Exhibit D.

19. On December 12, 2017, Plaintiff received a letter from Sheri Norris, the Director of Human Resources, advising that due to a reorganization of the Public Relations and Marketing Department, Plaintiff's position was Public Relations and Marketing Specialist was eliminated, and that his employment with the Pennsylvania Turnpike Commission had been terminated effective December 8, 2017. See Exhibit E.

Count I - Violations of Due Process

20. Plaintiff hereby incorporates by reference paragraphs 1 through 11.

21. Plaintiff was terminated without being provided adequate post-termination process in violation of the Due Process Clause and 28 U.S.C. §1983.

22. The Due Process Clause requires that a state "make available" the means by which [the employee] can receive redress for the deprivations.'" *McDaniels v. Flick*, 59 F.3d 446, 459 (3d Cir. 1995) (quoting *Schaper v. City of Huntsville*, 813 F.2d 709, 715-16 (5th Cir. 1997)).

23. Defendants failed to provide any meaningful process that would have enabled Plaintiff to challenge his termination or the defamatory statements made in connection therewith – an especially problematic violation in light of the complete absence of pre-termination process.

24. Defendants' failure to provide adequate post-termination procedure violated Plaintiff's clearly established constitutional rights and caused severe and lasting damage.

25. Had Plaintiff been accorded adequate process, it would have emerged that both the initial decision to terminate Plaintiff and the ultimate one was without any basis.

WHEREFORE, Plaintiff seeks the damages set forth in the Prayer for Relief clause of this Complaint, *infra*.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Carl Risoldi, requests that the Court grant him the following relief against Defendant:

- a) Damages for past and future monetary losses as a result of Defendant's wrongful termination;
- b) Compensatory damages;
- c) Punitive damages;
- d) Liquidated damages;
- e) Emotional pain and suffering;
- f) Reasonable attorneys' fees;
- g) Recoverable costs;
- h) Pre and post judgment interest;
- i) An allowance to compensate for negative tax consequences;
- j) Order Defendant to remove and expunge, or to cause to be removed and expunged, all negative, discriminatory, and/or defamatory memoranda and documentation from Plaintiff's record of employment, including, but not limited to, the pre-textual reasons cited for his adverse actions, disciplines, and termination; and
- k) Awarding any/all other extraordinary, equitable and/or injunctive relief as permitted by law, equity and the statutory provisions sued hereunder.

Respectfully Submitted,

KOLLER LAW LLC

Dated: August 30, 2019

By: /s/ David M. Koller
David M. Koller, Esquire
Sarah R. Lavelle, Esquire
Attorneys for Plaintiff